

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

ARTHREX, INC.,
a Delaware Corporation,

Plaintiff,

v.

INNOVASIVE DEVICES, INC.,
a Massachusetts Corporation,

Defendant.

CASE NO.: 99-851-CIV-ORL-18C

DECLARATION OF WADE FALLIN IN SUPPORT
OF INNOVASIVE DEVICES, INC.'S OPPOSITION TO
ARTHREX'S MOTION FOR PARTIAL SUMMARY JUDGMENT

I, Wade Fallin, declare as follows:

1. I am the Vice President and General Manager of Innovasive Devices, Inc. ("Innovasive").
2. After being served with the complaint in this action and, in particular, after being served with Arthrex's motions for partial summary judgment and for preliminary injunction, I and others at Innovasive have taken steps to investigate the inventorship of the techniques described in Arthrex's U.S. Patent No. 5,918,604 (the "604 Patent"). Specifically, I have contacted Dr. Timothy Gibson, who is an orthopedic surgeon practicing in Huntington Beach, California.
3. I have been informed by Dr. Gibson that he conceived of a technique for loading an ACL graft into the knee for cross-pin fixation. His technique involved threading a suture through a transverse tunnel in the knee joint, pulling the threaded suture down through the tibial

tunnel, looping a graft over the loop created by the suture, hoisting the looped suture into the tunnel by pulling on the exposed ends of the suture, and threading a cross-pin implant over the suture and through the looped suture to fix the graft in the joint.

4. I have been further informed by Dr. Gibson that sometime before or during a conference in Palm Desert, California in November 1996 he disclosed his technique to an Arthrex employee.

Sworn to under the pains and penalties of perjury this 13 dz of October, 1999.


T. Wade Fallin